

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CORRECTIONAL SERGEANT JOHN
DIX, a.k.a. "JOHN DIX, JR.,"**

Plaintiff,

v.

**CITY OF PHILADELPHIA, POLICE
OFFICER MICHAEL PALMER #2192,
POLICE OFFICER BRANDON BRYANT
#7165, DETECTIVE ALONZO DAWSON
#0606, SGT. McGEEVER #413, BEST
BUY IMPORTS, INC., MICHAEL
REITANO, TONY POULOS, FAIR STOP
AUTO, INC., and WILLIAM CLARK**

Defendants.

CIVIL ACTION

NO. 15-532

FILED

AUG - 3 2015

**MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk**

ORDER

AND NOW, this 31th day of July, 2015, upon consideration of City defendants' Motion for Judgment on the Pleadings (Document No. 6, filed May 8, 2015), and Plaintiff's Response in Opposition to Defendants', City of Philadelphia, Police Officers Bryant and Palmer, Detective Dawson, and Sergeant McGeever, Motion for Judgment on the Pleadings (Document No. 9 filed June 11, 2015), for the reasons stated in the accompanying Memorandum dated July 31, 2015, **IT IS ORDERED** that City defendants' Motion for Judgment on the Pleadings is **GRANTED IN PART** and **DENIED IN PART**, as follows:

1. City defendants' Motion for Judgment on the Pleadings is **GRANTED** as follows:
 - a) Count I is **DISMISSED WITH PREJUDICE** to the extent it: 1) alleges that the City of Philadelphia and defendant officers in their official capacities committed conversion; and 2) alleges that defendant officers in their individual capacities committed conversion by taking plaintiff's firearm on the day of his arrest;
 - b) Plaintiff's false arrest claim in Count II is **DISMISSED WITH PREJUDICE**;

- c) Count III is **DISMISSED WITH PREJUDICE** to the extent it alleges that City defendants conspired to falsely arrest plaintiff;
- d) Count VI is **DISMISSED WITH PREJUDICE**;

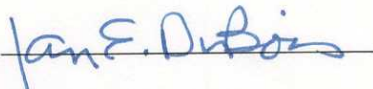
2. City defendants' Motion is **DENIED WITHOUT PREJUDICE** to the extent it asserts a qualified immunity defense and seeks dismissal of plaintiff's malicious prosecution claim. City defendants may reassert their arguments concerning malicious prosecution by Motion for Summary phase and/or trial if warranted by the facts and applicable law; and

3. City defendants' Motion for Judgment on the Pleadings is **DENIED** in all other respects.

IT IS FURTHER ORDERED that all claims against Lieutenant Zaffino are stricken from the Complaint.¹

IT IS FURTHER ORDERED that a preliminary pretrial conference will be scheduled in due course. Discovery may proceed in the interim.

BY THE COURT:


DuBOIS, JAN E., J.

¹ The Complaint asserts claims against Lieutenant Robert Zaffino. As Lt. Zaffino is not identified in the case caption and plaintiff does not assert any specific factual allegations against him, the Court strikes the claims against him.